

Board of Zoning Appeals

September 27, 2006

- Terry Kaufman – Variance Hearing
- Terry Kaufman – Conditional Use Request

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Ch. Manley called the hearing to order at 7:30 pm.

Roll found Huff, Fox, Zeleznak, Hoop, Dick, Tamulewicz, and Manley present. Also present: Charles Pope representing the Zoning Commission, Trustees Garapick and Schulte, Marge Palik, reporter, and 4 guests in the audience.

Ch. Manley polled each member of the Board of Zoning Appeals to respond yes if they have inspected the Kaufman property this evening.

Response: Fox – yes Huff – yes Zeleznak – yes Dick-yes Hoop – yes Tamulewicz – yes Manley – yes

Ch. Manley stated that the Hinckley Township Board of Zoning Appeals acts within the regulation of Section 519 of The Ohio Revised Code and exercises its powers as provided under Section 7 & 13 of The Hinckley Township Zoning Regulations.

Ch. Manley asked Clerk Garrett whether the zoning office received any written or verbal communication pertaining to this hearing. Ms. Garrett stated that the BZA received a letter from the Zoning Commission, which will be addressed during the hearing by Mr. Pope, as well as a letter from Francie Horn of the Veteran's Administration, a letter from Jeff Benner of the VA Hospital, a letter from James Bennett, assistant County Prosecutor, and 2 letters from neighbors of the applicant.

Ch. Manley polled each member of the Board of Zoning Appeals to respond yes if they have received and reviewed the contents of the application submitted by Terry Kaufman, applicant.

Response: Fox – yes Huff – yes Zeleznak – yes Dick-yes Hoop – yes Tamulewicz – yes Manley – yes

Ch. Manley noted for the record that the Board of Appeals as testimony does not accept non-written communication made by known or unknown persons, not under oath at a properly noticed hearing. He explained to those present that the meeting is being taped for the record. In addition he noted for the record that the documents that relate to this application might include written communications from persons who are not present this evening.

Ch. Manley also announced that written communications from persons not present this evening include communications that are not made by affidavit. Because persons not under oath make these communications, this Board does not accept them. He also noted that written communications might include some writing by affidavit, by persons that are not present this evening and, therefore cannot be subjected to cross-examination. These affidavits, therefore, will not be given much

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weight, if any, in the decision of the Board on this matter. In addition, the audience was informed that they must state their name, address, and be sworn in. All testimony will be given from the podium.

Clerk Garrett read the legal notice as it appeared in the Medina Gazette.

Mike Cook, 5634 Greenwood Dr., Seville, Ohio was sworn in accordingly: Terry has been running this Veteran's home for many years. It is a place for the Veterans; She is my wife's aunt. They have been at this location since 1985. They were approved for six residents and now have permission for eight residents to reside there.

At this time, Ch. Manley insisted that Ms. Kaufman give testimony. Ms. Terry Kaufman, 253 W. 130th St, Hinckley Twp, Ohio, was sworn in accordingly: Originally, I had just my father living there with me. Then it increased to five men. Right now, we are licensed to have eight residents at this location. The average length of stay is from a month to several years. At Mike Cook's residential home, he still has some guys that I had several years ago.

Mr. Tamulewicz: Do you live in the house?

Ms. Kaufman: Yes.

Ch. Manley: Would you please describe the significance of the certificates that you have submitted with your application?

Ms. Kaufman: These certificated are testimony that I have taken particular training courses that they offer to maintain a Veteran's Residential Home. They are continuing education. These classes are required to obtain a state license. The Veteran's Administration requires that you participate in one day of training on whatever topic they chose in order to maintain approval to have a care facility of this type. The classes that I have attended pertain to topics such as discipline, emergencies, meal planning, mental illnesses, addictions, and everyday living.

Mrs. Dick: Have you received training on emergencies that could arise?

Ms. Kaufman: Yes, such as when the power goes out, tornado activity, flooding.

Mrs. Dick: Do you ever feel uneasy or scared of the residents?

Ms. Kaufman: No. A medical doctor and a psychiatrist have assessed all residents. They have been released and the doctor's recommendation is that these people can return to the community. I have never had a problem with these people, not even close to it.

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Mrs. Huff: Has the Hinckley Police Department ever responded to your house?

Ms. Kaufman: My daughter called the police once. She was afraid of one of the men. We called to have one of the people taken away, taken to a hospital. They cannot take them to the VA; they must take them to the nearest hospital. We had taken the men out to the Home Depot. One guy went over to Giant Eagle and in a ten minute duration he bought a mixed vodka drink. He did not have a good reaction to it. The Police took him to Southwest Hospital and then they sent him back to the VA Hospital. That was the only time I had to call the police. I did call an ambulance when they were not feeling good. There were two calls over the years.

Mr. Zeleznak: Were these men at the VA Hospital, receiving some rehab and training to go out to the outside world? Instead of them getting their own apartment, they can live at your place?

Mr. Cook: Yes. They may have been hospitalized and then they are released and are able to move out on their own or to a group home. They stay with us, get on the right track and can sometimes get a place of their own.

Ms. Kaufman: I have a man that has a house in Brunswick but he does not want to stay there by himself.

Mr. Zeleznak: So you are just another extension of the VA – especially since a large portion of the VA is shutting down.

Ms. Kaufman: I own this home. I bought it in 1979 as a residence. I have two kids. My dad got sick. I wanted to have another person there for him to spend time with. My kids were small and I did not have much time to spend with him. I had one other guy stay with him and then it just multiplied.

Ch. Manley: Is there someone certified that is there 24 hours a day?

Ms. Kaufman: As long as there is a resident there, they are supervised. I take them out with me to the store, restaurants. We go to Bob Evans 7 days a week, every morning and every evening.

Mrs. Dick: Do you have any other staff?

Ms. Kaufman: My daughter, her fiancé and myself. My other daughter is a State Tested Nursing Assistant and she helps once and a while. These residents are not employed, they are disabled.

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Charles Pope read a letter from the Hinckley Township Zoning Commission. (See attached letter)

V. Ch. Tamulewicz asked Mr. Pope for specifics of the safety related concerns that the Zoning Commission had addressed in the letter. The driveway is supposed to be twenty feet wide, is that a safety concern?

Mr. Pope: It is not a public thoroughfare. It is a residential home. It was not discussed at our meeting. We have no regulations there. If need be, they may need to provide us with that information.

V. Ch. Manley: We do have several years' worth of annual inspection information.

Ms. Kaufman stated that they have a registered nurse that visits the house twice a week.

Mr. Pope: It was suggested by the Board that a fence of some sort be erected to establish some screening. This would give the residents as well as the neighbors some additional privacy. I did not inspect the property, I believe Mr. Kamps did.

Ch. Manley read a letter from James Bennett, Assistant County Prosecutor. (See attached letter dated August 14, 2006) This letter indicated that this particular veteran's home is licensed under a federal law and cannot be denied existence in Hinckley Township

Clerk Garrett read a letter from Jeff Benner, Acting CRC Program Director, and Brecksville Ohio. (See attached letter)

Mr. Larry Bennett, 263 W. 130th St., Hinckley, Ohio was sworn in accordingly. I live next door to Terry. I have lived here for 21 years. Last summer I came out of my house, there were four or five men sitting on her deck. They do this in the summertime; they have nothing else to do. They yelled over to me, laughed and barked like dogs at me. This was 9:30 at night; there were no cars in the driveway. Neither Terry nor her daughter was there. I was fed up. She has not had people there all the time, it is off and on. When her husband was alive, they kept these veterans somewhere else. I do not understand why she has to keep them at her house. My wife and I wrote a list of problems that we have had over the years. I wrote it in this letter to Ron Garapick. (See attached letter dated July 14, 2006)

Her husband told me this was a temporary thing. He was going to move the residents to another location. He was a nice person so I did not want to make trouble. However, there is not getting away from them. There was a man in my driveway standing right next to my car. The man was drunk and tried to enter my

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house. You could smell it. Her daughter came to my house the next morning in hysterics. She said the guy chased her around the house and she wanted to phone the police. She called the police and they took him away. Debbie Ritson is the neighbor on my other side. She told me that one of these men chased her son. My property is higher than hers is. She put up a frame that represents an 8-foot fence. I see right over it. It needs to be a 15-foot tall fence. There is one guy that is outside both day and night. This guy obviously has problems. He urinated behind her garage. Two men do that. He mutters and walks around both day and night. These men sit outside and smoke in the summer, talking in loud tones. I can hear it. Last night there were five men staying there. There is a turnover of new faces showing up. Two guys have been there for a long time and the others seem to rotate. Does anyone know what their background is? Are there background checks done on these guys? Do they have criminal histories, are they sexual predators? Who is monitoring them? They are free to come and go at night. I am quite sure that Ms. Kaufman and her daughter are behind locked doors at night. We cannot sit on our deck or porch anymore because there will be five guys staring at us. It is very irritating that people are always watching us. My wife is afraid of these men. What would happen if I put my house for sale? No one would touch it, especially someone with kids. This is a perfect house for a family. My whole yard is fenced in. A family would never touch it with these men next door. My value is way down because of it. I am a Viet Nam Veteran. I understand these people have rights and needs. However, why does it have to be right in the middle of a residential neighborhood?

Ch. Manley: What would you like us to do? Have you not heard when I said that the federal government says that this is totally allowed as long as it is a certified home? Some restrictions could be implemented so that the neighbors could have some peace of mind. The veterans have every right to live there.

Larry Bennett: Even though it is ten feet from the neighbor on the other side?

Ch. Manley: It is as clear as we can make it. You heard from the County Prosecutor, from the VA Administration that states that by law that facility will be there. It is not an issue.

Mr. Bennett: Well then, let us make it more appealing. An eight-foot fence will not be tall enough. I am much higher than her property. If she could have some sort of screening around her deck, plants or something.

Discussion of the height of the fence required.

Mr. Bennett: I am not thrilled with looking at eight feet of wood.

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Ch. Manley: You took title of this property in 1994, correct?

Mr. Bennett: No, I built the new house then. I bought this property with a small house, and then I tore the house down and built this new one. I have been there 21 years.

V. Ch. Tamulewicz: There would be a strip of grass between your chain-link fence and Terry's new fence, because your fence is right on the property line.

Mr. Bennett: her husband agreed to that. We would just kill that strip of grass.

Mrs. Dick: Now that you know that it is not within Hinckley Township's jurisdiction to close this home, when the VA says that they can exist, what would you like? You are not happy with an 8-foot fence, what would you recommend?

Mr. Bennett: She could plant something on her side of the fence that will grow. That will cover most of the problem along with the fence. There are all kinds of shrubbery that will grow to all kinds of heights.

Ch. Manley: Why haven't you considered this on your side?

Mr. Bennett: Why should I spend money out of my pocket over something that she has created? I have put a ton of money into my property. That is up to her, it is her responsibility.

Ch. Manley: Some of us might feel differently. As a homeowner, to protect your own rights, you might have some responsibility to protect your rights.

Mr. Bennett: I just want something done so I can enjoy my privacy. I do not want to see five pairs of eyes watching me. I do not want to see them urinating behind her garage.

V. Ch. Tamulewicz: How do you feel about the horseshoe pit?

Mr. Bennett: I have no problem with the horseshoes.

Mrs. Dick: According to yesterday's Plain Dealer, there will be more and more of these types of facilities. We really do not have any control over them because when the federal government says they are permitted, then we must permit them.

Mr. Bennett: There will be thousands of people coming home from Iraq with problems. I would think that before they allow someone to set up a group home they should consider that the home should be in the center of the property or have a

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buffer between the house and the property line. I have 66 feet, the other side is closer.

V. Ch. Tamulewicz: Our zoning calls for 100 feet.

Mr. Bennett: Then the zoning does not mean anything.

V. Ch. Tamulewicz: In this respect, you are correct.

Mr. Bennett: One time 3 different cities sent police to that home.

Mrs. Dick: Have you ever contacted the Veteran's Administration with your complaints?

Mr. Bennett: No.

Lida Litvak, 291 W. 130th St. was sworn in accordingly. I am a neighbor that lives a few doors down. I visit Terry's home often, I stop in for coffee even with my grandchildren. I have never felt threatened in any way by the residents. I have seen no problems of any kind. Everyone was behaving normally. I think the neighbor is watching them more than they are watching him. I do not hear anything at night other than Mr. Bennett's dog barking. I live three doors down.

Mr. Bennett: I bring my dog in every night at 9:30 pm.

Mrs. Litvak: And it is outside at 5:30 am or 6:00 am. I am out early, I walk up and down my driveway, and I do not see anyone anywhere. I have a long driveway.

Ch. Manley: Is there any curfew that these men have?

Ms. Kaufman: No.

Ch. Manley: Can they be outside at 4:00 am?

Ms. Kaufman: No, never that late at night.

Ch. Manley: What about the three or four police cars being at your house?

Ms. Kaufman: That was when the man bought the vodka drink and I called the police to take him away. I have no idea why there were so many police cars. Several different cities sent them for one man.

Mr. Zeleznak: Was the same man brought back the next morning?

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Ms. Kaufman: No, he did no return.

Mrs. Dick: Do you permit alcohol?

Ms. Kaufman: No, I do not. No drugs or alcohols are permitted.

Mrs. Dick: Mr. Bennett says that sometimes there are no cars there. Do you leave the men alone?

Ms. Kaufman: No, never. There is always someone home with them. It would be my daughter, her fiancé or myself. If I go out, I usually take them with me or if one or two wish to stay home, they always stay with someone.

Ch. Manley: If your daughter's fiancé was home alone, does he have access to a 24 hours pager?

Ms. Kaufman: Yes, it is posted on the wall. My daughter's fiancé has taken some classes to become certified.

Mrs. Dick: You are authorized to have as many as eight residents? Would you be comfortable with eight residents?

Mrs. Kaufman: I would hire someone to help but they would not have to live there. Mostly it would be for the cleaning.

Mr. Zeleznak: On the federal regulations, is there anything regarding curfews?

Mr. Cook: Each individual home should have some type of rules that they follow. It is up to the sponsor of the home.

Ms. Kaufman: Yes, we have rules. I will print them out for you.

Ch. Manley: Can you comment on the fence for Mr. Bennett?

Ms. Kaufman: I told him that I would put up a fence. He will not talk to me.

Ch. Manley: How about enclosing the deck?

Ms. Kaufman: I do not know how that would work.

Mr. Tamulewicz: Just some lattice work.

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Ms. Kaufman: He will still see them walking in the driveway. We are better off with a fence. The fence company was at my home today and they agreed an eight-foot fence is just not going to do it. I have to get a specialty fence at least ten feet high.

V. Ch. Tamulewicz: What about the urination?

Ms. Kaufman: I apologize for that. I do not like it anymore than Mr. Bennett. I did not know they were behind the garage doing that. I have talked to them about it; it is not permitted, ever. I thought they were back there at the burn barrel.

Mrs. Fox: Is this included in your house rules?

Ms. Kaufman: No, it is not in the rules. It is just basic common sense. These people cannot live in a place like mine if their behavior is like that. Obviously, I could not take them out in public if they behaved like that.

Mr. Zeleznak: Have you ever kicked anyone out because of behavior?

Ms. Kaufman: Yes, I have. Even if the VA says they are suitable, sometimes they are just not for me. So they return to the VA and they try to find them another group home.

Mr. Zeleznak: Is a ten-foot fence something that you would do?

Ms. Kaufman: Yes, it is. I told him that I wanted to put up a privacy fence. I really do not want to be a problem to anyone. He even asked me to refrain from lighting my burn pile when the wind was blowing in his direction and I agreed.

Ch. Manley: We have county rules and regulations pertaining to burning.

V. Ch. Tamulewicz: Will it be a vinyl fence, maintenance free?

Ms. Kaufman: Yes, a vinyl fence 10 feet high.

Mr. Zeleznak: How far past the garage?

Ms. Kaufman: To the back of Bennett's garage.

Mr. Zeleznak: It will be blocking off his little area back there?

Ms. Kaufman: Yes and all the way to the beginning of his turn-around.

V. Ch. Tamulewicz: Has Hinckley Fire Dept. been out to inspect?

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Ms. Kaufman: No, the Government brings their own fire inspectors out. The VA Hospital takes care of inspections.

Robert Henry, 245 W. 130th St. was sworn in accordingly: I never knew it was a registered group home. Mine is a single family home and all others around are also. I put a lot of time and money into my home. My concern is the men on the deck. The fence will be on the other side, not on my side. I have had no problems with them. She does her thing, and I do mine. I really do not have a concern.

Trustee Garapick read a letter from Mrs. Ritson. (See attached letter)

Ch. Manley: I would like a copy of the house rules.

Mrs. Fox issued a concern regarding the wandering and the urinating.

V. Ch. Tamulewicz: The lot is 118 feet wide therefore, the house cannot be more than 100 feet from any property border. The setback would have to be waived.

Mrs. Kathy Bennett was sworn in accordingly: Where is my security? Who is monitoring them? If the government states that we must allow this, then this board is powerless.

Ch. Manley: We can institute some regulations such as wandering and staying on their own property.

Mr. Zeleznak: Did you make a police report?

Mrs. Bennett: No.

Mrs. Fox suggested that Mrs. Bennett contact the VA Hospital and document her complaints.

Ch. Manley stated that any person adversely affected by this decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas of Medina County on the grounds that such decision was unreasonable or unlawful. They have 30 (thirty) days from the date the minutes of the appeal are journalized.

Clerk Garrett stated the minutes would be journalized on October 11, 2006.

V. Ch. Tamulewicz made a motion to grant a Conditional Use Permit to Terry Kaufman, 253 W. 130th Street, Hinckley, Ohio to continue to operate a community residential care home for Veterans located at the above address subject to the following conditions:

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1. A 10-foot vinyl privacy fence, approximately 200 feet in length will be constructed along the south side of the property.
2. No drugs or alcohol is permitted on the premise.
3. The permit is granted for 2 years at which time the property will be inspected and the applicant must file for renewal.
4. A list of all house rules must be posted in obvious place in the house at all times.

The enforcement of Section 7.4 Article 2 of the Hinckley Township Zoning Regulations will be waived since it is impossible to enforce.

Mrs. Dick second.

Vote: Dick-yes Zeleznak – yes Hoop – yes Tamulewicz – yes Manley – yes

V. Ch. Tamulewicz stated that the Zoning Inspector will follow-up on the property within 60 days to be sure the conditions have been met.

Hearing was closed at 8:54 pm.

WORK SESSION

V. CH. Tamulewicz made a motion to accept the minutes of the September 13, 2006 hearing and work session.

Vote: Dick-yes Zeleznak – yes Hoop – yes Tamulewicz – yes Manley – yes

The next meeting will be a Work Session on October 11, 2006 beginning at 7:00 pm.

Mr. Zeleznak made a motion to adjourn at 8:58 pm.

Mrs. Dick second.

Vote: Dick-yes Zeleznak – yes Hoop – yes Tamulewicz – yes Manley – yes

Signatures on following page

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Patty Garrett, Zoning Clerk

Minutes Approved _____, 2006

David Manley, Chairman

Tom Tamulewicz, Vice Chairman

Jeff Hoop, Member

Dave Zeleznak, Member

Shirley Dick, Member

Dottie Fox, Alternate Member

Melissa Huff, Alternate Member

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